



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-939

Certain Three-Dimensional Cinema Systems and Components Thereof

Commission Determination to Extend the Target Date;

Schedule for Filing Written Submissions on Certain Issues

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of the above-captioned investigation until June 1, 2016. The Commission also requests briefing from the parties on the issues indicated in this notice.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 12, 2014, based on a complaint filed by RealD, Inc. of Beverly Hills, California (“RealD”). 79 *Fed. Reg.* 73902-03 (Dec. 12, 2014). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain three-dimensional cinema systems, and components thereof, that infringe certain claims of U.S. Patent Nos. 7,905,602 (“the ’602 patent”), 7,857,455 (“the ’455 patent”), 7,959,296 (“the ’296 patent”), and 8,220,934 (“the ’934 patent”). *Id.* at 73902. The notice of investigation named as respondents MasterImage 3D, Inc. of Sherman Oaks, California, and MasterImage 3D Asia, LLC of Seoul, Republic of Korea. *Id.* at 73903. The Office of Unfair Import Investigations was not named as a party to the investigation. *Id.*

On July 23, 2015, the Commission later terminated the investigation as to various of the asserted claims and the ’602 patent in its entirety. Notice (July 23, 2015) (determining not to review Order No. 6 (July 2, 2015)); Notice (Aug. 20, 2015) (determining not to review Order No. 7 (Aug. 3, 2015)).

On September 25, 2015, the Commission determined on summary determination that RealD satisfied the economic prong of the domestic industry requirement through its significant investment in plant, significant investment in labor, and substantial investment in engineering, research, and development. Notice (Sept. 25, 2015) (determining to review in part Order No. 9 (Aug. 20, 2015)). The Commission, however, reversed the presiding administrative law judge’s (“ALJ”) summary determination with respect to RealD’s investment in equipment. *Id.*

On December 16, 2015, the ALJ issued a final ID finding a violation of section 337 with respect to the remaining asserted patents. The ALJ found that the asserted claims of each patent are

infringed and not invalid or unenforceable. The ALJ found that the technical prong of the domestic industry requirement was satisfied for the asserted patents. The ALJ also issued a Recommended Determination on Remedy and Bonding (“RD”), recommending that a limited exclusion order and cease and desist orders should issue and that a bond of 100 percent should be imposed during the period of presidential review.

On December 29, 2015, MasterImage filed a petition for review challenging various findings in the final ID. On January 6, 2016, RealD filed a response to MasterImage’s petition. On January 15, 2016, and January 19, 2016, MasterImage and RealD respectively filed post-RD statements on the public interest under Commission Rule 210.50(a)(4). The Commission did not receive any post-RD public interest comments from the public in response to the Commission notice issued on December 22, 2015. 80 *Fed. Reg.* 80795 (Dec. 28, 2015).

On February 16, 2016, the Commission determined to review the final ID in part and requested additional briefing from the parties on certain issues. 81 *Fed. Reg.* at 8744-45. The Commission also solicited briefing from the parties and the public on the issues of remedy, the public interest, and bonding. *Id.*

On March 1, 2016, the parties filed initial written submissions addressing the Commission’s questions and the issues of remedy, the public interest, and bonding. On March 11, 2016, the parties filed response briefs. No comments were received from the public.

On April 14, 2016, MasterImage filed a letter, notifying the Commission that, on that same day, the Patent Trial and Appeal Board of the U.S. Patent and Trademark Office (“PTAB”) issued a Final Written Decision finding claims 1, 6-10, and 18-20 of the ’934 patent unpatentable. *See* MasterImage Ltr. (Apr. 14, 2016).

The Commission has determined to extend the target date for completion of the investigation until June 1, 2016.

The Commission requests a response to the following question only:

1. What is the effect of the PTAB's Final Written Decision on the Commission's final determination, including any underlying findings, in this investigation? Please include in your response any effect on the issuance of remedial orders with respect to the asserted claims of the '455 and '296 patents and claim 11 of the '934 patent.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Initial written submissions must be filed no later than close of business on **April 26, 2016**. Initial written submissions by the parties shall be no more than 20 pages, excluding any attachments or exhibits. Reply submissions must be filed no later than the close of business on **May 3, 2016**. Reply submissions by the parties shall be no more than 20 pages, excluding any attachments or exhibits. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-939") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Lisa R. Barton

Secretary to the Commission

Issued: April 18, 2016

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